

PHARMACY BOARD[657]

Adopted and Filed

Rule making related to temporary designation of controlled substances

The Board of Pharmacy hereby amends Chapter 10, “Controlled Substances,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 124.201 and 124.201A and 2020 Iowa Acts, Senate File 2119.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 124.201 and 124.201A and 2020 Iowa Acts, Senate File 2119.

Purpose and Summary

These amendments to rule 657—10.39(124) make temporary amendments to the Iowa Code for scheduling action in the Iowa Controlled Substances Act (CSA) to match similar action taken by the federal Drug Enforcement Administration. The amendments add one substance (synthetic opioid) to Schedule I and remove Food and Drug Administration-approved cannabidiol products containing less than 0.1 percent tetrahydrocannabinol (THC) from Schedule V.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 23, 2020, as **ARC 5195C**.

The Board received one comment from the Consumer Healthcare Products Association, which expressed concern that the removal of FDA-approved cannabidiol products containing no more than 0.1 percent THC from Schedule V of the Iowa CSA would cause confusion in the marketplace since the December 2018 Agriculture Improvement Act (“2018 Farm Bill”) declared any cannabidiol product containing no more than 0.3 percent THC no longer a controlled substance. While the commenter is accurate regarding the 2018 Farm Bill’s declaration of cannabidiol products, this amendment simply removes from the Iowa CSA the specific language that is in direct conflict with federal law and meant to conform to the federal CSA.

A change from the Notice has been made to update the subrule numbers in order to account for a change in rule 567—10.39(124), which was rescinded and adopted new in **ARC 5346C**, IAB 12/30/20. Also, a change from the Notice has been made to remove the references to 2020 Iowa Acts, Senate File 2119, because that legislation has since been codified in the 2021 Iowa Code.

Adoption of Rule Making

This rule making was adopted by the Board on November 17, 2020.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on February 3, 2021.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** subrule 10.39(4):

10.39(4) Amend Iowa Code section 124.212 by rescinding subsection 6.

ITEM 2. Adopt the following **new** subrule 10.39(5):

10.39(5) Amend Iowa Code section 124.204(9) by adding the following new paragraph:

av. N,N-diethyl-2-(2-(4 isopropoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (other names: isotonitazene; N,N-diethyl-2-[[4-(1-methylethoxy)phenyl]methyl]-5-nitro-1H-benzimidazole-1-ethanamine).

[Filed 11/30/20, effective 2/3/21]

[Published 12/30/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/30/20.